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7 JOSE FRANCISCO GONZALEZ,
8 Petitioner,
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10 v.
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12 NEIL McDOWELL,
13 Respondent.

Case No. [22-cv-04057-RS](#) (PR)

ORDER REOPENING ACTION;
ORDER DIRECTING RESPONDENT
TO FILE A RESPONSE TO THIS
ORDER

12
13 This action is REOPENED. The Clerk is directed to modify the docket to reflect
14 this. The judgment and the order of dismissal are VACATED.

15 This federal habeas action was dismissed pursuant to a motion by respondent in
16 which it was contended that the petition was untimely. (Dkt. Nos. 8, 9.) The timeliness
17 calculation was based in part on a belief that petitioner had 90 days to file a petition for
18 writ of certiorari. Because the United States Supreme Court temporarily extended the time
19 to file a petition for certiorari, the petition may not be untimely. Respondent may wish to
20 revise or withdraw his motion to dismiss. Respondent is directed to file a response to this
21 order on or before **May 22, 2023**.

22 On March 19, 2020, the United States Supreme Court extended the deadline to file
23 petitions for writs of certiorari in all cases to 150 days from the date of the lower court
24 judgment, order denying discretionary review, or order denying a timely petition for
25 rehearing. *See Order Relating to COVID-19 and Petitions for Certiorari*, 589 U.S. ____
26 (2020). This modification remained in effect until July 19, 2021. Documents related to
27 the rule modification are attached as exhibits to this order.

1 Because the modification may affect the timeliness of petitioner's petition,
2 respondent is directed to file on or before **May 22, 2023** a notice with the Court in which
3 he indicates whether he wishes to file a revised motion, proceed with the initial motion, or
4 to withdraw the initial motion. If respondent indicates in the notice that he wishes to file a
5 revised motion, the Court will set a new motion deadline.

6 **IT IS SO ORDERED.**

7 **Dated:** April 20, 2023


RICHARD SEEBORG
Chief United States District Judge

United States District Court
Northern District of California

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